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## Ever the Twain Shall Meet

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# EVER THE TWAIN SHALL MEET

Fred S. McChesney\*

CORRUPTION AND GOVERNMENT: CAUSES, CONSEQUENCES, AND REFORM. By *Susan Rose-Ackerman*. New York: Cambridge University Press. 1999. Pp. xiv, 266. Cloth, \$49.95; paper, \$18.95.

This I tell ya, brother, you can't have one without the other. . . .

Try, try, try to separate them, it's an illusion.

Try, try, try and you will only come to this conclusion.

— Frank Sinatra<sup>1</sup>

Instinctively, corruption is deplorable. Nobody likes private citizens paying governmental officials for special favors. Few have deplored corruption longer or in greater detail than economist Susan Rose-Ackerman.<sup>2</sup>

In *Corruption and Government*, Professor Rose-Ackerman discusses how corruption starts (“causes”), why it is bad (“consequences”), and how to stop it (“reform”), principally from an economic perspective.<sup>3</sup> Professor Rose-Ackerman’s interest in corruption derives partly from her outside work with international agencies, especially time spent at the World Bank — “a transformative experience” (p. xi). Her twenty-two page bibliography ranges across sources in economics and politics, plus many documents from the World Bank and other international groups.

Causes, consequences, and reform constitute a sensible approach to analyzing corruption. One must first know the reasons for and effects of corruption before advancing any convincing prescription for correcting it. The book does not divide itself quite so neatly along those three lines. Causes, consequences, and reforms are intermingled in many chapters, as the book cycles through all three. Ultimately,

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\* Class of 1967 James B. Haddad Professor, Northwestern University School of Law; Professor, Department of Management & Strategy, Kellogg School of Management. A.B. 1970, Holy Cross College; J.D. 1978, University of Miami; Ph.D. 1982 (Economics), University of Virginia. — Ed. Tamara Shields provided helpful research assistance.

1. Sammy Cahn & Jimmy Van Heusen, *Love and Marriage* (ASCAP) (popularized by Frank Sinatra in 1955), at <http://www.spiritofsinatra.com> (last visited May 1, 2001).

2. Henry R. Luce Professor of Jurisprudence, Yale University.

3. “Economics is a powerful tool for the analysis of corruption. Cultural differences and morality provide nuance and subtlety, but an economic approach is fundamental to understanding where corrupt incentives are the greatest and have the biggest impact.” P. xi.

however, the reader understands well what Professor Rose-Ackerman sees as corruption's causes, costs, and cures.

In Part I, I use Professor Rose-Ackerman's tripartite division to summarize briefly her analysis of corruption. As I hope to show, there is much of interest and value in her analysis. Part II, however, explains that what she means by the single term "corruption" actually encompasses different phenomena with varying economic and legal implications. Some corruption is economically bad and illegal. Some is economically bad, but legal. And some is actually economically desirable, albeit illegal. Corruption turns out to be a more subtle phenomenon than *Corruption and Government* portrays it.

To foreshadow these points, consider four examples. Jewish freedom fighters in 1943 pay German soldiers to smuggle arms into the Warsaw Ghetto and smuggle Jews out.<sup>4</sup> At a time and place where abortion is illegal, doctors selling abortions pay government officials not to stop them. A politician takes campaign contributions from a constituent seeking a lucrative government contract and orders her staff to help the constituent get the contract. Politicians allow illegal transvestite reviews to take place in exchange for the organizers' paying for causes that the politicians choose.<sup>5</sup>

All of these examples entail corruption, as Professor Rose-Ackerman (and most others, probably) would define it.<sup>6</sup> But as instinctive reactions to these examples indicate — and, I will argue, as a more formal matter of economics — some corruption is actually good. In proposing truly useful reforms, one must distinguish good from bad corruption.

The examples also illustrate a point developed in Part III of this Review. When all is said, corruption is fundamentally a function of the

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4. See, e.g., DAN KURZMAN, *THE BRAVEST BATTLE: THE TWENTY-EIGHT DAYS OF THE WARSAW GHETTO UPRISING* (1976); JOHN HERSEY, *THE WALL* (1950); Gary S. Becker & George J. Stigler, *Law Enforcement, Malfeasance, and Compensation of Enforcers*, 3 J. LEGAL STUD. 1, 6 (1974) (discussing bribes paid to Nazis by Jews).

5. The following describes the transvestite "Miss All-America Camp Beauty Pageant" and similar drag beauty contests of the 1960s.

The organizer was Jack Doroshow, also known as Sabrina, who held 46 contests a year from 1959 to 1967 through his company, the Nationals Academy, which in its heyday had 100 employees on the payroll.

Mainstream America didn't know it, but the nation had a flourishing drag subculture, and not just in the major cities. . . .

. . . .

Since local laws often prohibited cross-dressing, Mr. Doroshow would meet with officials and propose a donation to some unspecified charity. In return, the town would pass a variance allowing the contest to take place.

William Grimes, 'The *Queen*' on the Runway Again, N. Y. TIMES, March 27, 1993, at 13.

6. Professor Rose-Ackerman does not use these specific examples, but they fall under what I understand to be her definition of corruption.

size and power of government.<sup>7</sup> This creates ambivalence and tension for international agencies that adopt a policy of limiting corruption. The agencies' principal function — providing financial support to national governments — increases the size and power of those governments, and thus facilitates corruption. These last points are largely ignored in Professor Rose-Ackerman's book.

I do not claim that governments and international agencies never do good things, or that reducing truly harmful corruption is undesirable. My claim is only that not all corruption is harmful economically, and even if it were, international agencies' role in corruption cannot be brushed over.

### I. CAUSES, COSTS, AND CORRECTION OF CORRUPTION

The length of Professor Rose-Ackerman's bibliography attests to the fascination that corruption holds for many.<sup>8</sup> Nonetheless, by rushing into this trove of material the book never fully defines what corruption is. It is said to be a type of "rent seeking," in which private producers and politicians "gain an advantage in dividing up the benefits of economic activity" (p. 2; citations omitted). Corruption "describes a relationship between the state and the private sector. . . . The relative bargaining power of these groups determines both the overall impact of corruption on society and the distribution of the gains between bribers and bribees" (p. 113).

However, she says, not all payments to government officials are bribes; some are merely gifts. "The definition of bribes and gifts is a cultural matter" (p. 110). "[C]orruption has different meanings in different societies" (p. 5). And because "'culture' is dynamic and constantly changing" (p. 110), what constitutes corruption must be, too.

In her concluding chapter (pp. 225-29), Professor Rose-Ackerman seems to have settled on dictatorial kleptomania plus outright bribery

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7. "Size and power" refer, respectively, to the number of economic domains over which government has authority and the amount of authority it has within those domains. "Authority," in turn, refers to the de facto ability of government to control economic activity.

8. Pp. 230-52. Other economic analyses of corruption could be added to the bibliography. *E.g.*, James Alm, *The Welfare Cost of the Underground Economy*, 24 *ECON. INQUIRY* 243 (1985); Bruce L. Benson, *Corruption in Law Enforcement: One Consequence of the "Tragedy of the Commons" Arising with Public Allocation Processes*, 8 *INT'L REV. L. & ECON.* 73 (1988); Bruce L. Benson & John Baden, *The Political Economy of Governmental Corruption: The Logic of Underground Government*, 14 *J. LEGAL STUD.* 391 (1985); Steven N. S. Cheung, *A Simplistic General Equilibrium Theory of Corruption*, 14 *CONTEMP. ECON. POL'Y*, July 1996, at 1; Eric Rasmusen & J. Mark Ramseyer, *Cheap Bribes and the Corruption Ban: A Coordination Game Among Rational Legislators*, 78 *PUB. CHOICE* 305 (1994). Articles appearing after the Rose-Ackerman book are Daron Acemoglu & Thierry Verdier, *The Choice Between Market Failures and Corruption*, 90 *AM. ECON. REV.* 194 (2000); A. Mitchell Polinsky & Steven Shavell, *Corruption and Optimal Law Enforcement*, 81 *J. PUB. ECON.* 1 (2001).

of lower government officials as the definition of corruption.<sup>9</sup> Part of the definitional haziness stems from the book's almost exclusive focus on corruption in developing countries. For example, the book details the remarkable extent of and sheer brazenness with which autocrats ("kleptocrats") in some countries plunder their treasuries and their citizenry (pp. 116-17). Given Professor Rose-Ackerman's background and interest in the underdeveloped world, her concentration on modes of corruption there is hardly surprising.

But autocratic theft and crude bribery are not the usual way that private interests and government officials transact in more developed societies. Most frequently, American politicians obtain money from private citizens from campaign donations and the like, in exchange for "access" to the politician. Is this corruption? Professor Rose-Ackerman's book does not say it is, although other developed-world sources certainly believe it is.<sup>10</sup> Similarly, do union endorsements and financial support amount to corruption when given in exchange for a politician's support for raising the minimum wage? Nothing in *Corruption and Government* helps answer that question.<sup>11</sup>

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9. "In a corrupt relationship both the briber and the recipient are better off, but the transaction violates government policy." P. 225. The definition of corruption as kleptomania plus bribery parallels Professor Rose-Ackerman's definition of corruption elsewhere: "Corruption is the misuse of public office for private gain. The structure of the state creates pockets of monopoly power where politicians and civil servants have discretionary power. Officials can use the power to enrich themselves." Susan Rose-Ackerman, *Corruption and Democracy*, 90 ASIL PROC. 83, 83 (1996).

10. Common Cause recently opined that, in America,

corporations, unions, and wealthy givers know that big money can result in extraordinary access and influence for their interests. Today, in Washington, if you want to be heard, it's much easier if you have a big soft money check that can help pave the way. . . . [T]he soft money system taints everyone in it — the givers, the candidates, and the parties. . . . [T]hanks to soft money, the public now sees parties largely for what they, sadly, have become: mail drops for special interest money.

Press Release, Common Cause, A Message from Scott Harshbarger (May 7, 2000) (on file with author).

11. To focus solely on the blatant corruption in less-developed countries is to miss much of what corruption and government are really all about. Analytically, corruption is corruption. Anywhere. Depredations of tin horns like the Marcoses are lamentable, but Ferdinand's squirreled-away millions and all of Imelda's shoes together add up to just a few days' honest (or legal) take for major politicians in the wealthier, First-World countries. One can snicker about petty border shakedowns by uniformed foreign customs officials, but how is the episode of the "Miss All-America Camp Beauty Pageant" any different? See Grimes, *supra* note 5. Corruption may be overt, as when a foreign kleptocrat demands money from private investors in his country, lest he otherwise seize (nationalize) their firms' assets. It may be more subtle, as when American politicians about to run for re-election squeeze money from tobacco companies to mail out to their constituents.

Just weeks ahead of the fall elections, Illinois officials on Thursday began mailing out the first checks under a \$280 million property tax rebate program. . . .

. . . .

The checks, funded by windfall revenue the state received as part of a legal settlement with the tobacco industry, will range from about \$25 to as much as \$300 for homeowners, depending on how much they pay in property taxes.

### A. *Causes of Corruption*

Professor Rose-Ackerman divides the causes of corruption into economic, cultural, and political problems (respectively, Parts I — III of the book). The distinction, however, is not particularly compelling; as noted above, she believes corruption's explanation lies in economics. Even the discussion of corruption as a political problem (Part III) is more about economics than about politics.

Economically, Professor Rose-Ackerman argues, corruption arises for the same reason payments are made in private markets. Government officials have something to sell for which private citizens are willing to pay (pp. 3-4). Bureaucrats sell import and export licenses (p. 11), access to government-controlled credit (p. 10), installation of telephones by state-controlled monopolies (p. 15), and relief from taxes and customs duties (pp. 19-21).

Indeed, from the book's recital of transactions, everything that government has or does may lead to corruption. It is all a matter of government property rights.<sup>12</sup> Politicians and bureaucrats have something of salable value to private citizens.<sup>13</sup> Markets happen, be they black markets or (legal) widget markets. So why do or should we care more about payments to politicians than those to widget makers?

### B. *Consequences of Corruption*

Corruption is bad, for many reasons. It is "associated with lower levels of investment and growth" (p. 2). It causes politicians and bureaucrats to favor "excessive public infrastructure investment."<sup>14</sup> Often, "corruption breeds more corruption and discourages legitimate business investment" (p. 3).

Corruption not only is bad, it is always bad. On that, Professor Rose-Ackerman is uncompromising: there is no good corruption. I discuss this point in Part II, where I present more of the reasons Professor Rose-Ackerman gives for the unalloyed malignancy of corruption.

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Ray Long, *U.S. Will Tax Your State Tax Rebate*, CHI. TRIB., Sept. 8, 2000, § 1, at 1.

12. "We define government corruption as the sale by government officials of government property for personal gain." Andrei Shleifer & Robert W. Vishny, *Corruption*, 108 Q.J. ECON. 599, 599 (1993).

13. "Corruption is a consequence of discretionary political authority. All governments vest in officials discretionary control over some property. . . ." Benson & Baden, *supra* note 8, at 394.

14. P. 3. As discussed below, "excessive infrastructure" is a deceptively simple expression, one implicating important problems about international agency activities. *See infra* Part III, text accompanying notes 46-51.

### C. *Correction of Corruption*

Professor Rose-Ackerman proposes a variety of reforms for the corruption she details. That they are predictable reforms does not diminish their potential value. We should eliminate programs in which corruption is entrenched (pp. 39-42). Outright elimination, however, is a last resort. "Many regulatory and spending programs have strong justifications and ought to be reformed, and not eliminated" (p. 44). Tax and customs collections could be simplified; regulation and social-benefit programs could be reformed to eliminate potential for corruption (pp. 44-48). Reform of government procurement laws, obviously rife with potential for corruption, is discussed at length (pp. 59-68).

Front and center is reform of the civil service in underdeveloped nations, a subject occupying all of the book's Chapter Five. "Countries emerging from a period one-party or authoritarian rule face the challenge of creating a professional civil service" (p. 69), "professional" meaning resistant to bribery. But how to reform entrenched bureaucracies? Most frequently, Professor Rose-Ackerman advocates increased pay: "If public sector pay is very low, corruption is a survival strategy" (p. 72).

Despite the book's frequent calls for better bureaucratic pay, however, Professor Rose-Ackerman seems uncertain how much this will really help. After advocating leveling off the difference between public- and private-sector salaries, she notes: "One should be careful, however, not to exaggerate the public-private disparity. In most cases total remuneration [for bureaucrats] includes not just formal wages but also perks such as housing or health care" (p. 72). She then adds that achieving whatever salary leveling is appropriate may be difficult by itself.

The strain of reform can be reduced by complementary policies to create jobs in the private sector and to encourage businesses to come out from underground. A good start might focus on the creation of an honest tax collection system. . . . One might then follow by cutting the civil service as private sector growth permits. Unfortunately, growth itself will cause its own problem — because existing corrupt officials will seek a share of the new wealth by imposing new restrictions on private firms. This problem may require unorthodox solutions. . . . [p. 74]

Cleaning corruption's stables clearly will be a Herculean task. Professor Rose-Ackerman recognizes that reform will not be easy: "One of the most vexing issues for reformers is determining when incumbent politicians and bureaucrats have an incentive to change" (p. 226). But she seems confident that a "hard look at regulatory laws to see which can be eliminated, which can be simplified. . . and which require improved enforcement" can succeed (p. 227).

One plausible alternative to corrupt government is privatization of government enterprises and functions. If corruption depends on gov-

ernment officials having de facto property rights over goods and services, stripping them of those rights by shifting resources to the private sector would seem advisable. Privatization would take money away from the kleptocrats and would reduce the favors bureaucrats have to sell.

But Professor Rose-Ackerman is only lukewarm at best about privatizing, and more often negative. If privatization occurs in a kleptocracy, she objects, the kleptocrat may simply privatize by selling the industry to himself or his family (p. 118). He may not be able to commit credibly not to tax the private enterprise inordinately, making the firm worthless if privatized. "Furthermore, even if he can somehow write binding contracts with investors, they may worry that a corrupt ruler risks overthrow" (p. 118).

In fact, Professor Rose-Ackerman continues, privatization would add to corruption, not correct it. Privatizing presents numerous opportunities for bureaucratic corruption, including insider trading by public officials and payments by newly privatized firms for special treatment (e.g., tax breaks) (pp. 35-38). Professor Rose-Ackerman's bottom line: "Corruption reduces the revenue-raising benefits of privatization and the award of concessions. Firms that retain monopoly power through bribery and favoritism undermine the efficiency benefits of turning over state firms to private owners" (p. 38). So, in the end, Professor Rose-Ackerman's corruption-correction program relies on improving government, rather than implementing changes that would diminish the role of government in the economy.

## II. THE ECONOMICS OF CORRUPTION

*Corruption and Government* commendably stimulates readers to consider corruption from an economic perspective. Given the imprecision with which corruption is sometimes defined, it is useful to start with the fundamentals. Economically, two sorts of corruption may be distinguished — purely political corruption and public-private corruption, the latter referring to two different things.

### A. Purely Political Corruption

Some corruption is simply theft from the public till by politicians or bureaucrats. Normatively, there is no case for government theft.<sup>15</sup> Positively, it can be analyzed like any other theft. Its incidence is a positive function of the benefits of crime (the expected amount that can be stolen), and a negative function of the expected costs (deter-

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15. Fred S. McChesney, *Boxed In: Economists and Benefits of Crime*, 13 INT'L REV. L. & ECON. 225, 228 (1993).



mined by the probability of being caught and the penalties meted out) to the criminal.<sup>16</sup>

Professor Rose-Ackerman, in discussing kleptocracy, refers to this sort of corruption, which I will call “purely public corruption.” She rightly condemns purely public corruption (pp. 114-21), and no further discussion is needed here. Dictatorship is bad, whether evaluated as a social, political, or economic phenomenon.<sup>17</sup>

Professor Rose-Ackerman, however, omits one essential point in her discussion — the size of the public fisc to which kleptocratic dictators can help themselves. The economics of crime (including kleptocratic theft) start with the benefits available. Anything that increases the size of the dictator’s, politician’s, or bureaucrats’ expected take will increase the amount of kleptocratic and government taking, an issue considered below.

### B. *Public-Private Corruption*

Looting the treasury is a purely governmental affair. The treasury exists and government officials take part of it.<sup>18</sup> A second form of corruption, “public-private” corruption, entails payments to government officials by private actors. The more government officials have to sell, the more private parties will buy.

Unlike purely public corruption, public-private corruption is not categorically bad. The notion of “good corruption” may be counter-intuitive, and Professor Rose-Ackerman rejects it completely. But a better understanding of public-private corruption shows that some corruption is indeed beneficial.

#### 1. *Bad Public-Private Corruption: Rent Seeking*

Economists call bad corruption rent seeking — special interests seeking special favors (“rents”).<sup>19</sup> One routinely finds politicians doling out favorable treatment to particular persons or industries.<sup>20</sup> Pay-

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16. The work on this subject is vast. The seminal work is Gary S. Becker, *Crime and Punishment: An Economic Approach*, 76 J. POL. ECON. 169 (1968). For a recent summary, see A. Mitchell Polinsky & Steven Shavell, *The Economic Theory of Public Enforcement of Law*, 38 J. ECON. LIT. 45 (2000).

17. Uzi Segal, *Let's Agree That All Dictatorships Are Equally Bad*, 108 J. POL. ECON. 569 (2000).

18. The treasury may exist because money had been taken previously from private parties, for example by taxation, but in this first sort of corruption the source of the money makes no difference.

19. For a good introduction and extended bibliography by the lawyer-economist who first analyzed rent seeking, see GORDON TULLOCK, *RENT SEEKING* (1993).

20. *E.g.*, Bruce Ingersoll, *Sugar Producers Get \$1.6 Billion of Federal Help*, WALL ST. J., May 15, 2000, at B4.

ments for special favors are certainly corruption as Professor Rose-Ackerman would define it.<sup>21</sup>

However, the favors-for-pay sequence often is perfectly legal. In America, no law stops a politician from accepting — indeed, from soliciting — money in exchange for constituents getting a chance to present their views to him. Nothing prevents private interests from contributing to have a chance to present their views. In fact, the process is constitutionally protected,<sup>22</sup> subject to regulations that do not prevent politicians from raising sums unimaginable a generation ago.

This phenomenon presents a problem for analysts of corruption. Unquestionably, rent seeking is economically undesirable: “Talented people concentrate their effort on rent seeking rather than on productive activities” (p. 213). On the other hand, it is indubitably legal, in various forms in various countries. In underdeveloped countries, Professor Rose-Ackerman says, the payments are often called “gifts,” and we should respect local custom that views gifts to politicians an acceptable part of the culture.<sup>23</sup> In our developed country, we call them PAC donations — pretending that these are really gifts, rather than money for favors.

But if the gift exchanges are legal, and if, as Professor Rose-Ackerman says, we should respect local notions of what is legal, there is little for an economist to complain or write about. To the extent that corruption, albeit economically bad, is legal rent seeking, there is nothing new in *Corruption and Government*. Professor Rose-Ackerman merely advocates Third World legal reform to require reporting of gifts (p. 110), ignoring the utter impuissance of reporting laws in the developed world to stop rent seeking.

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U.S. sugar producers reap about \$1.6 billion a year from a shaky federal price-support program that the Clinton Administration just shored up with a big sugar-buying spree.

The government has long kept U.S. sugar prices far above the world market price by curtailing imports of lower-cost sugar and sticking consumers with the price-support tab in the form of higher sugar, candy and soft-drink prices. . . .

. . . .

. . . Since 1981, sugar refineries, food makers and consumers have been paying inflated prices for raw cane sugar, refined sugar and sweetened food products. Two years ago, the total bill amounted to \$2.2 billion, up 29% from 1996, the GAO says.

Dairy farmers and tobacco growers, among others, have received special compensation for low prices or crop losses. Sugar producers deserve the same “compassion,” Jack Roney, an American Sugar Alliance spokesman, says.

21. *E.g.*, pp. 2, 147, 213; *see supra* text accompanying note 9.

22. *Buckley v. Valeo*, 424 U.S. 1 (1976).

23. *E.g.*, pp. 5, 110.

## 2. *Good Public-Private Corruption: Rent Extraction*

Much of the corruption described in Professor Rose-Ackerman's book involves payments known as "rent extraction" or "wealth extraction."<sup>24</sup> As with rent seeking, rent extraction is an economic term with which Professor Rose-Ackerman is familiar. But the book ignores a fundamental implication of the rent extraction model: in the real world of public-private interactions, corruption can be good.<sup>25</sup>

Rent extraction is to rent seeking as tort is to contract. With rent seeking, private and public parties have an extralegal contract that makes both better off.<sup>26</sup> The politician has the money and the constituent has the favor. With rent extraction, however, the public-private interchange is akin to tortious extortion or blackmail: the private party is paying not to be made worse off. For example, President and Mrs. Clinton's threats in 1993 to impose price controls on the health care industry — proposed but ultimately abandoned — generated a flood of private money for politicians not to legislate. The *New York Times* reported in late 1993:

As Congress prepares to debate drastic changes in the nation's health care system, its members are receiving vast campaign contributions from the medical industry, an amount apparently unprecedented for a non-election year. While it remains unclear who would benefit and who would suffer under whatever health plan is ultimately adopted, it is apparent that the early winners are members of Congress.<sup>27</sup>

"Your money or your life" is the back-alley equivalent of political rent extraction. Private parties surrender money to politicians rather than lose something of even greater value.

The payments, however, can be benign. Price controls are extraordinarily costly to society economically (whatever their benefits to politicians pushing them), and paying off legislators not to impose them is economically beneficial overall. The payments to politicians to avoid price controls must be less than the costs to payors, or the payments would not be made.<sup>28</sup> In general, payoffs (corruption) are good or bad

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24. See generally FRED S. MCCHESENEY, *MONEY FOR NOTHING: POLITICIANS, RENT EXTRACTION, AND POLITICAL EXTORTION* (1997); Fred S. McChesney, *Rent Creation and Rent Extraction in the Economic Theory of Regulation*, 16 J. LEGAL STUD. 101 (1987).

25. For a more detailed discussion, see Fred S. McChesney, *'Pay to Pay' Politics Examined, with Lessons for Campaign-Finance Reform*, 6 INDEP. REV. (forthcoming 2001).

26. The contract is extralegal in that, although legal, it is not enforceable in court. See MCCHESENEY, *supra* note 24, at 86-109.

27. Neil A. Lewis, *Medical Industry Showers Congress with Lobby Money*, N.Y. TIMES, Dec. 13, 1993, at A1.

28. The economics of rent extraction are more complicated. For example, if the private payments are just transfers, they entail no economic costs. Also, the social-welfare costs from the process are not the same as the amount payors would lose if the threatened legislation were passed. But none of this is germane here.

depending on whether the political action forestalled was bad or good. If abortion is illegal, the abortionist's payments to politicians to have abortions continue will be evaluated as good by pro-choice advocates, bad by pro-life partisans:

Finally, much rent extracting corruption is legal. Politicians' selling relief from onerous taxes may be bad or good, depending whether the tax is good or bad.<sup>29</sup> But it is legal corruption, practiced routinely in America by politicians on the House Ways and Means and Senate Finance Committees.<sup>30</sup> As one member of the House observed: "The only reason it isn't considered bribery is that Congress gets to define bribery."<sup>31</sup> American culture today includes these legal gifts made during congressional tax sessions.

### C. *Corruption and Government Property Rights*

Professor Rose-Ackerman doubtless appreciates the distinctions between rent seeking and rent extraction. Chapter Four (economically, the most analytic of the book) begins: "Corrupt incentives exist because state officials have the power to allocate scarce benefits and impose onerous costs" (p. 39). Any difference between rent seeking and rent extraction seems unimportant to her, however, because either will provoke corruption: "In practice, the distinction between active [initiating] and passive corruption and between extortion and bribery means little because both parties must agree before corruption can occur" (p. 53).

This statement is true, but economically irrelevant. It means that all corruption should be suppressed, regardless whether it is good or bad. The very occurrence of paid-for agreements between private and public figures constitutes corruption, however benign their economic consequences.

The unbending focus on public-private transactions, rather than their welfare implications, means that the book skirts the real source of both rent-seeking and rent-extracting corruption: the size and power of government. Whether the corruption complained of is payment for special favors (bad corruption) or corruption to avoid imposition of even greater costs (good corruption), the corruption problem

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29. The attitude toward taxes in *Corruption and Government* is quite ambivalent. In places it is recognized that taxes are imposed for inappropriate reasons or are inappropriately onerous, pp. 51-52, yet payments to avoid inappropriate or overly burdensome taxes are also decried, pp. 16-17.

30. E.g., JEFFREY H. BIRNBAUM & ALAN S. MURRAY, *SHOWDOWN AT GUCCI GULCH* (1987); see Richard L. Doernberg & Fred S. McChesney, *Doing Good or Doing Well?: Congress and the Tax Reform Act of 1986*, 62 N.Y.U. L. REV. 891 (1987) (reviewing BIRNBAUM & MURRAY, *supra*).

31. David Maraniss, *PAC Heaven: Commerce Committee Members Roll Up Corporate Contributions*, WASH. POST, Aug. 21, 1983, at A1.

is defined by the government problem. Governments that have the size and power to award special favors<sup>32</sup> and impose special costs are governments that, by definition, will cause the greatest amount of corruption. As one economist writes, “[c]orruption is a direct consequence of discretionary authority by government officials.”<sup>32</sup>

Typically, then, an economist evaluates corruption relative to governmental action. Corruption, like practically everything else in life (including government), has costs and benefits. Those costs and benefits are the flip side of the government policy causing it. Some government power may be good, some is bad. So, corruption can be bad or good, depending on the nature of the cause. When government is wrong, working around its errors must be good. When government is right, circumventing its edicts is bad. Concerning government regulation, a frequent subject in *Corruption and Government*, economist Steven Cheung summarizes the view “apparently shared by most economists”:

[C]orruption generally is good, though sometimes not so good. It is good because most regulations and controls move the market away from Pareto optimality. Corruption will then cause a move back toward the Pareto condition. Some regulations, however, are good because they move the economy closer to Pareto optimality. Given good regulations, corruption moves the market away from efficiency. Therefore, some corruption is good, and some is bad. With bad regulations, corruption is good. With good regulations, corruption is bad.<sup>33</sup>

But in *Corruption and Government*, all corruption is bad precisely because it circumvents government. Professor Rose-Ackerman’s devotion to incumbent government sometimes seems unquestioning. Whatever the government does defines the public interest. In her conclusion, she writes:

Self-interest and the public interest frequently conflict. In a corrupt relationship both the briber and the recipient are better off, but the transaction violates government policy. A criterion other than willingness to pay is supposed to prevail. [p. 225]

Automatic equation of “public interest” and “government policy” is incorrect. The two are often diametrically opposed. This fact is particularly true in the countries on which Professor Rose-Ackerman focuses.<sup>34</sup>

32. Benson, *supra* note 8, at 74.

33. Cheung, *supra* note 8, at 1.

34. There are passages in the book in which Professor Rose-Ackerman acknowledges the existence of beneficial corruption, if only implicitly. “Citizen concerns over bribes paid in return for favors indicate that people recognize norms of fair dealing and competent administration and are beginning to demand that government serve general public purposes.” P. 225. But an analysis of corruption and government cannot have it both ways. Either government is or is not serving the public interest, and if the latter, corruption may be beneficial.

In making her goal the suppression of all corruption, not just economically deleterious corruption, Professor Rose-Ackerman clearly disagrees with economists who would approach the subject in standard cost-benefit terms. She admits many analysts believe bribes "have desirable incentive properties."<sup>35</sup> She dismisses such claims at the outset (pp. 16-26), before getting to the details of Third-World corruption that make up the bulk of the book. Her refutation consists of four arguments.

First, good corruption begets bad corruption. Even if some corruption were good, permitting it "may encourage its spread to other areas with harmful consequences" (p. 16). The reasoning is circular, since she claims all corruption is bad to start with. No evidence is provided, either, that allowing good corruption increases bad corruption. Why wouldn't good corruption breed even more good corruption?

Second, the book continues, corruption occurs secretly, therefore inefficiently; "if bribes do serve a valid resource allocation function, they should be legalized, and the fees made public" (p. 26). But to say corruption is bad because it is illegal and therefore must occur clandestinely begs the questions: Why is the activity illegal in the first place? Why should it be? The problem of secretiveness merely reflects the state of the law. If the law is bad, then the corruption — however clandestine — can be good.

Consider the example of bribes paid by Jews to get weapons into and people out of the Warsaw Ghetto. It occurred secretly, of course, because it was illegal and highly dangerous. Yet, surely, this is good corruption. As Gary Becker and George Stigler write, "bribes that reduced the effectiveness . . . of the laws in Nazi Germany against Jews . . . would improve, not harm, social welfare (although not as defined by the legislature)."<sup>36</sup>

Just as surely, to return to Professor Rose-Ackerman's first argument, successful attempts to buy one's way out of the Ghetto fostered further attempts by others: good corruption provoked more of the same. The Warsaw Ghetto is an extreme example, but the point is applicable in many contexts. Abortions occurred illegally and therefore secretly in the United States for most of our history. Were the payments necessary to keep abortionists in business good or bad corruption? That they were made secretly tells one nothing other than that they were illegal.

The book's third and fourth reasons why corruption is always bad focus on the effects produced on the briber and bribee. On the briber side, "corruption can contribute to an uncertain business climate" (p.

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35. P. 16. "Several authors have pointed out that some corruption might be desirable." Shleifer & Vishny, *supra* note 12, at 600.

36. Becker & Stigler, *supra* note 4, at 6.

17). Bribers cannot be sure that what they are paying for will be delivered, and payments made firm by firm “result in a wide variance in conditions across firms” (p. 17). On the bribee side, corruption can “hold back state reform” (p. 17), and it “undermines the legitimacy of government” (p. 26).

These propositions confound the cause with the symptom. Corruption in the Warsaw Ghetto indicated the lack of certainty Jews faced. But the bribes hardly created the lack of certainty; they manifested it. Likewise, the entire atrocity that was the Warsaw Ghetto could only “undermine the legitimacy” of the Nazi government. Bribery in the face of illegal abortion or banned drag shows illustrates the same point. Bribes often solve a problem, not cause it.

The real problem is the size and power of government. The surest way to reduce corruption is to reduce government. Professor Rose-Ackerman disagrees, briefly but emphatically: “[A] general program to shrink the size of government will not necessarily reduce corruption” (p. 41). The support for that position is a short (fourteen-page) paper Professor Rose-Ackerman published in a Spanish-language journal.<sup>37</sup> The book disposes of the entire subject in fewer than two pages. Given that this position is contrary to that of almost all economists,<sup>38</sup> *Corruption and Government*’s cursory treatment of the issue is disappointing.

The book’s reasons why reducing government will not reduce corruption are confusing.

Recall that scarcity produces corrupt incentives, and notice that reductions in government spending can produce scarcity when spending programs are cut or when regulatory budgets fall with no change in the underlying statutes. Even worse, if a government under fiscal pressure cuts back spending, it may at the same time seek to maintain its influence by increasing regulations and mandates. The result can be increased corruption. [p. 41]

But how is this a “general program to shrink the size of government”? In her example, government reduces “regulatory budgets” but corrup-

37. Susan Rose-Ackerman, *Una Administracion Reducida Significa una Administracion Mas Limpia?*, 145 NUEVA SOCIEDAD 66 (1996).

38. This view is also contrary to many non-economists who focus on corruption. J.D. Pope of Transparency International (TI), the international corruption-monitoring organization located in Berlin, notes that the sort of program Professor Rose-Ackerman advocates — enforce the laws, or reform them and enforce them — hardly constitutes the full range of possible or desirable solutions to corruption:

Countering corruption cannot be simply a matter of enacting laws, it is a matter of making systems work. It involves changing the way people behave — and this can only be done by altering the environment in which they are behaving. There are four broad scenarios when it comes to tackling systematic corruption. This first is a good, old-fashioned revolution.

Jeremy D. Pope, *Transparency International and the Drive Against Corruption*, in CORRUPTION, DEMOCRACY AND HUMAN RIGHTS IN SOUTHERN AFRICA 225, 231 (Ayodele Aderinwale ed., 1995).

tion nevertheless ensues because government seeks "to maintain its influence by increasing regulations and mandates." The same government that had the same regulatory powers before is "increasing government regulations and mandates."

Some of the problem may be a misunderstanding of how to measure the size and power of government. Professor Rose-Ackerman gives the following explanation why shrinking government can actually increase corruption:

[A]n overall contraction in the size of the government budget may simply make government benefits scarcer. Corruption may then increase as potential beneficiaries compete for the increasingly scarce pool of benefits. Spending cuts accompanied by increases in regulations may simply shift the locus of corruption. It is not enough for a country to get its macroeconomic totals in line with IMF guidelines. Nations should be concerned with the underlying structure of public programs, not just the size of government. [p. 42]

The book seemingly equates reducing the size and power of government with reducing government spending. But corruption has no necessary relation to government spending or government budgets. Purely public corruption is official theft that occurs off the books. In public-private corruption, payments made to public officials for special favors (rent seeking) or to avoid government imposition of costs (rent extraction) are likewise off the books.

A similar confusion pervades the book's attitude toward privatization. If the size and power of government are principal factors both in purely public corruption and in public-private corruption, one obvious solution would be privatizing functions that need not be performed by government (and often are not, outside the Third World). Not so, the book says (pp. 35-38). Privatization may be a sham, with the firm owned by the kleptocrat's family (as in Suharto's Indonesia). A government that is strong enough to steal from the fisc is strong enough to force payments from private firms. But privatization that maintains resources in the kleptocrats' hands, or leaves him free to take from the private firm the way he did from the treasury, is not what most people mean by privatization. Government maintains economic control over the resources concerned; its discretionary authority — the source of corruption — is unchanged. True privatization goes unanalyzed.

### III. CORRUPTION, GOVERNMENT, AND INTERNATIONAL ORGANIZATIONS

Why does *Corruption and Government* almost categorically refuse to consider reducing government as a solution to corruption? One reason may be the author's World Bank experience, which left such an



impression.<sup>39</sup> Almost all the book concerns corruption abroad, based on a large library of studies produced by, for, or in conjunction with the World Bank, International Monetary Fund (IMF) and other international organizations. For these organizations, providing financial support to Third World governments, corruption is a touchy subject. Professor Rose-Ackerman reports of her year at the World Bank:

It was fascinating to work on a topic — corruption — that the Bank had treated with indirection in the past. I began to collect euphemisms. People told me that when a review of a program mentioned “governance problems,” “unexpected cost overruns,” or “excessive purchase of vehicles,” this meant that corruption and simple theft were a problem. A World Bank staffer pointed out that complaints about “excessive capital-labor ratios” in a report on Indonesia meant that corruption was not only rife but costly. [pp. xi-xii]

The book says little about why corruption is so ticklish a subject that circumlocution is required. But it is not hard to understand why. International agencies actually increase the amount of international corruption.

Recall that illegal corruption is a function of the gains available from crime. International agencies exist to funnel bags of money to foreign governments.

From the [World Bank’s] creation in 1946 until the late 1960s, it was a conservative institution . . . . Then, in 1968, Robert McNamara became bank president and dedicated himself to continually raising loan levels. By 1981, when McNamara resigned, lending had increased more than 13-fold, from \$883 million to \$12 billion. Loan levels have continued soaring . . . . According to the bank’s own auditors, bank projects have suffered from “unseemly pressure” to lend more money.<sup>40</sup>

These numbers are perhaps small potatoes by Western standards. They are often astronomical, however, relative to overall economic activity in the recipient nation.<sup>41</sup> If corruption is a positive function of the amounts of money available to corrupt, then international agencies are responsible for an increase in corruption.

Moreover, international bureaucrats are like any others: what expands their budgets is good for them.<sup>42</sup> To keep the money coming

39. See *supra* text accompanying note 3.

40. James Bovard, *The World Bank and the Impoverishment of Nations*, in PERPETUATING POVERTY 59 (Doug Bandow & Ian Vásquez eds., 1994) (citing WORLD BANK, TWELFTH ANNUAL REVIEW OF PROJECT PERFORMANCE RESULTS 48 (1987)).

41. E.g., Doug Bandow, *Foreign Aid Doesn't Work*, WALL ST. J. EUROPE, May 14, 1997, at 6 (“In some years, assistance accounted for as much as 30% of the GDP of the recipient state. Over the entire period, aid was 10% of Haiti’s GDP, 15 % of Burundi’s and Rwanda’s, and nearly 20% of Chad’s.”).

42. The classic citation is WILLIAM A. NISKANEN, BUREAUCRACY AND BUDGETS (1971). For the wealth of work done thereafter, see DENNIS MUELLER, PUBLIC CHOICE II 250-57 (1989).

from donor nations,<sup>43</sup> international organizations need the donee states to accept the money offered.<sup>43</sup> International agencies therefore have generally deferred to foreign governments (meaning, often, dictators) in the projects that they underwrite. The IMF "remains politically dependent on the very governments to whom it lends."<sup>44</sup> Says one World Bank official from Ghana: "We do not have Bank projects in Africa. Rather, we work with the governments to do what they believe is best for their development aspirations."<sup>45</sup>

With so much money and a desire to work with national governments, international-agency involvement in underdeveloped economies has often resulted in economic disaster. This has been due, in particular, to agency preferences for lending to corrupt socialistic economies.<sup>46</sup>

In nations like Ethiopia, Somalia, Sudan and Zaire, foreign assistance subsidized autocratic and corrupt dictators who consciously wrecked their nations. This has made reform even more difficult. Argues Alex De Waal, one-time vice director of Africa Watch: Aid "is structurally bad because all forms of relief undermine the incentive to take responsibility. The more aid a country receives, the less the government of that country has to answer to the people." . . . Michael Maren, who has worked for the Peace Corps, Catholic Relief Services and U.S. AID, says that the food program there "was working to prop up a corrupt dictator and turn nomads into relief junkies."<sup>47</sup>

43. Roland Vaubel, *The Political Economy of the IMF: A Public Choice Analysis, in PERPETUATING POVERTY*, *supra* note 40 at 55 ("All this is not to deny that many dedicated civil servants work at the IMF. But they are exposed to a perverse bureaucratic incentive . . . [E]xpanding their institution is where their interests meet." (citation omitted)).

44. *Id.* at 47.

45. W. Paatii Ofori-Amaah, Colloquy, *The Role of Multi-Lateral Institutions in African Development*, 30 LAW & POL'Y INT'L BUS. 697, 698 (1999) (remarks of W. Paatii Ofori-Amaah, Chief Counsel, Africa Division, World Bank Legal Department); *see also* Michael M. Phillips, *IMF Makes a Push for Good Government*, WALL ST. J., Mar. 19, 1999, at A2 ("[I]t will be difficult for the World Bank and IMF to fully implement the new [anti-corruption] policy, partly because they are owned by the very governments whose integrity and effectiveness are in questions.").

46. "Almost everyone in the policy community today acknowledges that market-friendly economic policies are critical for growth. Aid officials have often not disagreed, but have tried arguing that aid money can induce countries to move to market. Foreign transfers more often subsidize economic failure, however — witness Russia." Doug Bandow, *Aid Prolongs Third World Poverty*, WALL ST. J. EUROPE, Aug. 20, 1999, at 6; *see also* Hugh Pope, *Corruption Stunts Growth in Ex-Soviet States*, WALL ST. J., July 5, 2000, at A17.

47. *Id.*; *see* Michael Maren, *THE ROAD TO HELL: THE RAVAGING EFFECTS OF FOREIGN AID AND INTERNATIONAL CHARITY* (1997). Maren's firsthand account is as searing as its title indicates. *See also* Michael Maren, *Manna From Heaven? Somalia Pays the Price for Years of Aid*, VILLAGE VOICE, Jan. 19, 1993, at 23; Alex de Waal & Rakiya Omaar, *Doing Harm by Doing Good? The International Relief Effort in Somalia*, CURRENT HISTORY, May 1993, at 198 (authored by the co-directors of African Rights, a human rights group in London).

Perennially, the agencies promise they will improve. But economists Alberto Alesian and Beatrice Weder report in a study for the National Bureau for Economic Research that "more corrupt governments still tend to receive more aid."<sup>48</sup>

International agencies' tendency to corrupt is seen in their continued preferences for the Big Project in borrower (donee) nations.<sup>49</sup> Purely as a way toward economic development, big projects (dams, roads, ports) are suspect.<sup>50</sup> Efficient development starts with private entrepreneurship; therefore donors can do more good by getting the national government off local entrepreneurs' backs.<sup>51</sup> The Big Project puts money into the hands of national authorities, increasing their power and so converting "aid" into a development obstacle.<sup>52</sup>

If so, why does self-defeating aid in the form of Big Projects continue? Because politicians, even in developed nations without interna-

48. Bandow, *supra* note 46; see also George B.N. Ayittey, *How the Multilateral Institutions Compounded Africa's Economic Crisis*, 30 L. & POL'Y INT'L BUS. 585 (1999).

49. In discussing "projects normally financed through bank credits or, in the case of external aid, through concessional credits," a former director-general of development at the European Commission writes:

The disastrous effect of corruption reaches its highest point when the conception and eventually the choice of a project are determined by corruption. By conception, I mean the acquisition of inappropriate technology to the needs of the country or the choice of project lays more emphasis on capital, often more rewarding in corrupt terms than that based on manpower which would be more useful for development . . . . I would like to quote Remi Godeau in *Jeune Afrique* of July 94: "Africa is larded with abandoned motor-ways eaten away by the savannah, factories down the drain hardly some few years upon taking off, impassable rail lines due to lack of maintenance, hydro-electric dams abandoned due to lack of profitability.

Dieter Frisch, *Effects of Corruption on Development*, in CORRUPTION, DEMOCRACY AND HUMAN RIGHTS IN WEST AFRICA 59 (1994).

50. Michael M. Phillips, *Hippocratic Oath: Can World Bank Lend Money to Third World Without Hurting Poor?*, WALL ST. J., Aug. 14, 2000, at A1:

World Bank officials took a Hippocratic oath when they agreed in 1997 to lend India more than a half-billion dollars to mine coal. Above all, the bank officials swore to themselves, the project would do no harm. . . . World Bank officials concede that, once again, one of their massive Third World investments has exacted a severe toll on citizens whose lives ultimately were supposed to have been made better. . . . Still, bank officials continue to see the big projects as necessary for nurturing fragile economies. "These are the bread and butter of the bank historically," and it doesn't intend to back away from them, says Mr. Lim [World Bank director for India].

51. HERNANDO DE SOTO, *THE OTHER PATH: THE INVISIBLE REVOLUTION IN THE THIRD WORLD* (1989); Cheung, *supra* note 8. Ayittey, *supra* note 48, at 588, writes:

[A] distinction should always be made between African *leaders* and *people*. For example, the expression "the U.S. is helping Africans develop their economies" is very misleading. Whom does the U.S. help — African leaders or people? The two are not necessarily synonymous, but there often exists an erroneous presumption that helping African leaders necessarily helps the people. The leadership has been the problem, not the people. Despite this, the West continues to invest heavily in African leaders.

52. Professor Rose-Ackerman understands this. Early in the book she warns against corruption's encouragement of "excessive public infrastructure investment" (p. 3), and closes by warning against "state sponsorship of massive infrastructure projects that are too large and complex" (p. 228).

tional aid, prefer the Big Project. Politicians find it useful to bestow large rewards on their deserving (i.e., rent seeking) constituents. Big Projects do a better job of pinpointing the deserving constituents. In the United States, for example, the Army Corps of Engineers is the king of Big Project agencies, and receives unrivaled political backing.<sup>53</sup> Even agencies like the U.S. Forest Service find that building roads, not forests, is the way to go.<sup>54</sup>

More important, the Big Project also facilitates corruption. Professor Rose-Ackerman herself agrees that “[c]orrupt payments to win major contracts and concessions are generally the preserve of large businesses and high-level officials” (p. 27). So, why not reduce corruption by ending the emphasis on Big Projects and decentralizing foreign aid? Alas, national governments, the “high-level officials,” and kleptocrats to whom Professor Rose-Ackerman refers, do not want little projects. Without national government agreement on what international agencies give, the agencies have no projects at all.

Personally, Professor Rose-Ackerman probably would agree with this assessment. But *Corruption and Government* is hardly more eager to confront the systemic deficiencies directly than those World Bank employees whose euphemisms she reports. Chapter Ten covers “The Role of the International Community” in reducing corruption. She says that in the World Bank, “[c]orruption is no longer a taboo subject” (p. 196). But to her, it is not something that international agencies cause, either. Corruption is something that happens to the World Bank and its money, not something that its money might actually be responsible for. Agencies are victims, too.

A serious attempt to deal with the subject will require confrontations with many borrowers and with lenders whose own firms pay bribes in developing countries. The World Bank’s own difficulties are easy to see in their policy document *Helping Countries Combat Corruption* . . . . Yet

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53. E.g., Michael Grunwald, *Working to Please Hill Commanders*, WASH. POST, Sept. 11, 2000, at A1:

What does the Army Corps of Engineers do in Mississippi? Generally, whatever Senate Majority Leader Trent Lott and Senate Agriculture Committee Chairman Thad Cochran want it to do. . . . Lott and Cochran have directed the Corps to supply water to major industries in Lott’s home town of Pascagoula and to raise the Mississippi River levees. They are pushing the Corps to dredge harbors in Pascagoula and Gulfport and a marina at a northern Mississippi lake resort. They moved the local Corps district to a sprawling campus that one agency memo called the TajMaVicksburg.

54. BILL BRYSON, *A WALK IN THE WOODS* 46-47 (1998):

The Forest Service is truly an extraordinary institution. A lot of people, seeing that word *forest* in the title, assume it has something to do with looking after trees. In fact, no — though that was the original plan. . . . In fact, mostly what the Forest Services does is build roads. I am not kidding. There are 378,000 miles of roads in America’s national forests. That may seem a meaningless figure, but look at it this way — it is eight times the total mileage of America’s interstate highway system. It is the largest road system in the world in the control of a single body. . . . It is the avowed aim of the U.S. Forest Service to construct 580,000 miles of additional forest road by the middle of the next century.

change cannot occur unless countries acknowledge the problem and deal with it . . . . [p. 197; citation omitted]

In football, the best defense is a good offense. International agencies now work hard to create an image of themselves as corruption-busters.<sup>55</sup> The book toes this line.

The previous chapters outlined the steps that a reform-minded government can take to reduce corruption. International aid and lending agencies should start with such a framework and work with individual countries to develop a realistic program. . . . Existing attempts include the provision of resources and technical assistance to ease the transition to a competent, less numerous, and well-paid civil service system. The success of such efforts has been mixed and not always very durable, but the effort needs to be continued — especially if the World Bank can learn from some of its past failures.<sup>56</sup>

This slant played well during the recent public-relations difficulties experienced by these agencies.<sup>57</sup> But it comes off as remarkably similar to Budweiser's public-relations campaign exhorting responsible drinking — the similarity not diminished by episodes of alleged corruption within the World Bank itself,<sup>58</sup> and in other aid-related programs.<sup>59</sup>

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55. Bandon, *Foreign Aid Doesn't Work*, *supra* note 41: "Rather than dismantle failed programs, however, government agencies and multilateral organizations have been concocting new justifications for more of the same." Sometimes, though, busting corruption simply means stanching the flow of international money to corrupt countries, a tacit admission that the corruption was linked to the money in the first place. See Phillips, *IMF Makes a Push for Good Government*, *supra* note 45.

56. Pp. 183-84 (citation omitted). For another example of the perspective that corruption just happens and then creates problems for international financial agencies, see Nancy Zucker Boswell, *Combating Corruption: Are International Institutions Doing Their Job?*, 90 AM. SOC'Y INT'L L. PROC. 98 (1996).

57. Last April, when several different organizations demonstrated and rioted against the World Bank and IMF in Washington, *USA Today* editorialized in favor of these organizations.

In the past several years, these institutions have been reforming themselves. The IMF is becoming less secretive in its practices, and auditing its loans better so borrowers can't steal. . . .

. . . .

And both institutions are on the right path in using their clout to help root out corruption in the countries to which they provide loans.

Editorial, *Protesters Target Institutions Most Able to Help the Poor*, USA TODAY, Apr. 14, 2000, at 14A.

58. William Murray, *World Bank Investigating Possible Embezzlement*, WALL ST. J., July 17, 1998, at A12 (reporting that the World Bank "has found evidence of possible kick-backs and embezzlement at the international antipoverty institution" and that, in 1996, "the Bank prosecuted [an] employee . . . for stealing about \$500,000 by falsifying travel accounts").

59. *E.g.*, Pamela Ferdinand, *U.S. Sues Harvard over Russia Aid Project*, WASH. POST, Sept. 27, 2000, at A21 (reporting that the United States was seeking \$120 million in damages in a suit against Harvard University alleging fraud by Harvard employees in contracts Harvard had with U.S. Agency for International Development concerning development

An agency that provides the booty to foreign governments — some of them those same kleptocrats that Professor Rose-Ackerman wrote about a hundred pages earlier — cannot pretend that corruption strikes like lightning thereafter. (Imagine Budweiser's announcing a new campaign to give away free beer to people promising to drink responsibly.) As both political parties in the recent debate over welfare reform in America have acknowledged, more welfare money leads to more welfare abuse; one sure way to cut welfare abuse is to cut the amount of welfare available.

Both economically and legally, actors are deemed to intend the foreseeable consequences of their acts. When the World Bank (Agency for International Development, United Nations, whatever) ships in the bullion, it knows that at least part of what it will get is corruption. The past is often the best indication.<sup>60</sup> In 1999, "U.S. Treasury Secretary Robert Rubin acknowledged in congressional testimony that much of the \$4.8 billion that the IMF provided Russia last year 'may have been siphoned off improperly.'"<sup>61</sup>

*Corruption and Government* is right to decry all of this. But antipathy is not analysis. As a self-described work of economics, the book must confront the unfortunate fact that government power makes possible corruption, and that international bodies working through national government powers provoke more corruption. The real question is whether international agencies that, willy-nilly, foster corruption among whatever else they achieve have other benefits exceeding their costs.<sup>62</sup> Many analysts, surveying international bodies' subsidization of corruption and dictatorial socialism, would answer no, including some analysts at the agencies themselves.<sup>63</sup> But that issue, obviously important, goes beyond Professor Rose-Ackerman's book.

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projects in Russia); see also Editorial, *Harvard on the Volga*, WASH. TIMES, Oct. 3, 2000, at 18.

60. Bandow, *supra* note 41 ("[T]he U.S. Agency for International Development . . . admitted that 'much of the investment financed by [the U.S.] and other donors between 1960 and 1980 has disappeared without a trace.' " (quoting USAID report)).

61. Phillips, *supra* note 45.

62. If one last analogy is permitted, consider laws against drugs (or, formerly, alcohol). No one likes debilitating addiction any more than one likes welfare-decreasing corruption. But reducing addiction by outlawing drugs increases the number of murders. The positive correlation between prohibition (of drugs or alcohol) and murder does not mean that people could not conclude that prohibition is nonetheless worth all the murders. But it would be unreasonable to pretend that more prohibition does not degenerate into more murder, and thus to evaluate prohibition benefits without including the associated murder costs.

63. E.g., MAREN, *supra* note 47; Bandow, *supra* note 41 ("All too often, [recipients] were aid-backed regimes that were not only corrupt but collectivist."); Joseph Kahn, *World Bank Cites Itself in Study of Africa's Bleak Performance*, N.Y. TIMES, June 1, 2000, at A9 (referring to joint World Bank report with the United Nations and African development institutions).

## IV. CONCLUSION

In critiquing and sometimes criticizing a book like *Corruption and Government*, one risks being misunderstood. Nothing in this Review should suggest that legal reform to stem malign corruption is rearranging the deck chairs on the *Titanic*. Things like reforming procurement laws or increasing bureaucrats' salaries may well have benefits exceeding their costs.<sup>64</sup> To the extent that such solutions would reduce bad corruption, they should be, and are, applauded.

But if one sincerely wants to reduce bad corruption — and no one can doubt Professor Rose-Ackerman's dedication to eradicating corruption — other fundamental points are missing or underemphasized in this book.

First, there is that iceberg, government. *Corruption and Government* overplays corruption's manifestations and underplays government's role. Government is the real cause of corruption, and a book on corruption cannot treat the subject without a model that includes its size and power. A book about corruption written from an economic perspective must recognize that, while all corruption is by definition illegal, that does not make it bad economically.

Finally, the role of international agencies in all this analysis needs more attention. Far from being mere victims of corruption, agencies are frequently to blame for it. They keep giving kleptocrats money. And therein lies much of the tale.

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64. For some reports that reforms may be having the desired effects, see Phillips, *supra* note 45 ("More than two dozen countries, from Russia to Paraguay, have asked for the bank's help in combating corruption. It's become 'politically correct to request assistance,' says Daniel Kaufmann, who works on the bank's anticorruption outreach. 'The question is how to ascertain seriousness,' he says.").